



# Employer Guide to Certifying Leave to PERS

School Districts ♦ Community/Junior Colleges ♦ Municipalities ♦ Counties ♦ Juristic Entities

## For More Information, Contact PERS

800.444.7377 | 601.359.3589 | [customerservice@pers.ms.gov](mailto:customerservice@pers.ms.gov)

This guide provides a general overview of provisions in Mississippi Law for certifying leave to the Public Employees' Retirement System of Mississippi (PERS) to apply toward the retirement of employees of school districts, community/junior colleges, municipalities, counties, and juristic entities. For specific provisions, see PERS Board Regulation 51, *Administration of Certification of Accumulated Unused Leave for Service Credit and Lump Sum Payments of Leave at Termination/Retirement*.

## Qualifying Leave as Service Credit

A member may use qualifying accumulated unused, uncompensated personal and major medical leave (also called vacation and sick days) for additional service credit at retirement. While this leave cannot be used toward a member's vesting, it can be used to determine service-based retirement eligibility, as well as the requirements for eligibility for the Partial Lump Sum Option.

Only accumulated unused leave earned under a covered employer that remains unused and unpaid at the time of termination/retirement may be certified to PERS for additional service credit. Once unused leave is accumulated from all employers, that leave will be converted by PERS to whole days for the purpose of converting to service credit. If the leave was accrued under a policy with a greater accrual rate than the state's leave law, PERS will convert the hours into days using a ratio that proportionately converts the hours to an amount that could have been accumulated under the state's leave law (§ 25-3-91).

All accumulated unused leave must meet the following conditions before being certified to PERS on the applicable form:

- Leave was accumulated by a member who terminated employment on or after May 15, 1984 (or after July 1, 1984, for state and university employees).
- Leave was accumulated while the member was employed in a PERS-covered position.
  - » Leave accumulated prior to when a member joined PERS may not be included.
- Leave was accumulated under a lawfully adopted written leave policy (i.e., one adopted by the entity's governing authority and recorded in the authority's minutes).
  - » Leave policies must be in effect at the time the leave is accrued and may not be adopted/applied retroactively.
- Leave is supported by existing records for certification.
- Leave does not exceed the maximum accrual allowed under the state's leave law. (Employers should certify leave balances and accrual rates to PERS. PERS will convert the leave to an amount that is proportional to what the state's leave law allows.)
- Leave was accumulated by the member for which the leave is certified and was not donated by a co-worker.
- Leave falls within the categories of leave allowed to be certified under the state's leave law (i.e., vacation, personal, medical, sick). Categories of leave created by the employer that are not available to state employees (e.g., "banked," expired, sabbatical, compensatory, or "retirement purposes only" leave) may not be certified to PERS.
- Leave is allowed to be carried over from year to year and must be available for the employee's use.
  - » Leave that expires or that the governing authority does not allow the employee to carry over from year to year may not be certified to PERS.

## Record Keeping

Employers are responsible for maintaining accurate leave records in accordance with the employer's legally adopted policy and for ensuring that employees receive appropriate leave credit at retirement. Keeping accurate records and ensuring appropriate leave credit is granted is vital, as all accumulated leave records are subject to an audit by PERS any time before or after a member retires.

- For PERS to grant service credit for accumulated unused leave, the leave must have been accrued under a lawfully adopted leave policy and the employer must maintain records that document the accrual and use of leave and the actual unused leave existing at the time of termination.
- There is no authority to transfer leave from, to, or among counties, municipalities, juristic entities, or any other employer covered under PERS (except in the case of transfer of leave among community and junior colleges, universities, and state agencies as provided in Mississippi Law).
- Once accumulated leave has been properly certified to PERS it may not later be "decertified" or reinstated, except in the case of a wrongful termination where an employee is reinstated to employment back to the date of termination with full compensation, rights, and privileges.
- Employers are responsible for letting PERS know if an employee accrued leave at a rate higher than the state's maximum leave accrual rate, regardless of when that leave was earned. That unused, uncompensated leave must be segregated from the rest of the reported leave for conversion purposes at retirement, and the employer must certify it along with all other leave.

*This guide contains general information about your retirement system and is not a legal reference. For detailed explanations about all PERS retirement systems, call the PERS office or visit us online.*

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## Special Provisions

- Though elected officials do not accumulate leave under a leave policy, state law stipulates that these individuals receive additional service credit at retirement based on elected official leave provisions outlined in PERS Regulation 51, *Administration of Certification of Accumulated Unused Leave for Service Credit and Lump Sum Payments of Leave at Termination/Retirement*.
- In the case of dual employment, accumulated unused leave from only one position may be used to determine additional service credit.
- In the case of dual employment where one of the positions is an elected position, the employee will only receive credit under the elected official leave as it automatically applies.
- If unused leave is accrued by personal employees of an out-going elected chancery or circuit clerk but the in-coming elected chancery or circuit clerk does not assume the same leave policy, such leave may be certified to PERS on behalf of the employee by the out-going clerk. The same applies to employees of an out-going elected district attorney.
- When an employee of a covered employer is elected to office with that same covered employer without a break in service between the non-elected and elected employment, all unused leave accumulated by the employee under a policy of the employer prior to taking office as an elected official must be certified to PERS at the time of transition from the non-elected to the elected position.

## Limitations on Leave Accrual

Accumulated unused leave certified to PERS at termination of employment may not exceed the rate provided under Mississippi Law for state employees. For reference, the tables below outline the leave accrual rates for state employees.

### State Employee Personal Leave Accrual Rates

Continuous Service	Hours per Month	Days per Year
1 month - 3 years	12	18
37 months - 8 years	14	21
97 months - 15 years	16	24
More than 15 years	18	27

### State Employee Major Medical Leave Accrual Rates

Continuous Service	Hours per Month	Days per Year
1 month - 3 years	8	12
37 months - 8 years	7	10.5
97 months - 15 years	6	9
More than 15 years	5	7.5